

THE FREEDOM OF INFORMATION ACT

*Protecting America's right to
know.*

What is the Freedom of Information Act? (FOIA)

- Based on the concept that the public has a right to information concerning the activities of its government, FOIA provides public access to releasable records.
- It does not require agencies to do research, conduct surveys, compile or analyze data, or to answer questions.

What's a FOIA Request?

- A written request for DOD records that reasonably describes the record(s), made by any person, organization, or business (excluding a Federal Agency or fugitive from the law) that invokes the FOIA, DOD Directive 5400.7, DOD 5400.7-R, or DOD component supplementing regulation or instructions.

What else is involved in a FOIA request?

- Requesters should indicate a willingness to pay fees associated with the processing of their request or why a waiver of fees may be appropriate.
- Written requests may be received by postal service or other commercial delivery means, by facsimile, or electronically (postal mailing address must be included).

So, who is the OPR when a FOIA arrives?

- A DOD element that either prepared or is responsible for records identified as responsive to a FOIA request.
- The OPR is the one who will provide the requested records.

What happens after the OPR receives a FOIA request?

- KEEP TRACK OF TIME! Within 20 working days DOD components must either release the records, provide the date they will be released, or the reason why the records cannot be released.

What's next?

- The OPRs coordinate the release or denial of records requested with IDAs, OCRs, Air Force attorneys, and FOIA offices.

What are IDAs?

- The Initial Denial Authority (IDA) is an official who has been granted authority by the head of a DOD component to withhold records exempt from mandatory disclosure.

What are OCRs?

- Office of Corollary Responsibility: a DOD element with an official interest in, and/or a collateral responsibility for, the contents of records identified as responsive to a FOIA request.

What are some of the FOIA Manager responsibilities?

- Ensure administrative correctness of all FOIA actions processed.
- Control and process FOIA requests.
- Obtain recommendations from the OPR for records.
- Prepare or coordinate on all proposed replies to the requester.
- Collect fees.

What tools do the FOIA Manager need?

- NGB Form 340, *Case Status Log*
- NGB Form 1, *Action Form*
- DD Form 2086-1, *Record of Freedom of Information Processing Cost for Technical Data*

What's this about collecting fees?

- Collection of fees will be made at the time of providing the documents to the requester or recipient when the requester specifically states that the costs involved are acceptable.

What are the costs to be charged?

- It depends on what kind of records are being provided and to whom they are being provided (individual, commercial, news media, educational). See the AF supplement to DOD 5400.7-R, para C6.2. & C6.3.

What records are exempt from disclosure?

- There are nine specific exemptions:
- 1. Classified
- 2. Internal personnel rules and practices
- 3. Exempt by other statute
- 4. Commercial information that would cause competitive harm
- 5. Pre-decisional, deliberative information
- 6. Invasion of personal privacy

Records exempt from disclosure

- 7. Compiled for law enforcement purposes.
- 8. Reports prepared by, on behalf of, or for the use of any agency responsible for the regulation or supervision of financial institutions.
- 9. Containing geological and geophysical information and data (including maps) concerning wells.

Other reasons why a record will not be released

- **No records.** *A reasonable* search of files failed to identify responsive records.
- **Referrals.** The request is transferred to another DOD component or to another Federal Agency.
- **Fee related reason.** The requester is unwilling to pay fees associated with a request, or the requester is past due in the payment of fees from a previous FOIA request.

Other reasons why a record will not be released

- **Records not reasonably described.** A record has not been described with sufficient particularity to enable the DOD component to locate it by conducting a reasonable search.
- **Not an Agency record.** The information requested is not a record within the meaning of the FOIA and DOD 5400.7-R.
- **Duplicate request.** The requester asked for the information more than once.

References

- Air Force Freedom of Information Act Handbook, available at: <http://www.foia.af.mil>
- DOD 5400.7-R, *DOD Freedom of Information Act Program*, Sep 98.
- Air Force supplement to DOD 5400.7-R

Who is the FOIA Manager for LA ANG?

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<http://159cf/IRM/FOIA.htm>

Questions?